

Central Intelligence Agency



Washington, D.C. 20505

OS REGISTRY

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Mr. James C. Murr  
Assistant Director for Legislative Reference  
Office of Management and Budget  
Washington, D.C. 20503

Dear Mr. Murr:

This is in response to your request for the views of the Central Intelligence Agency on H.R. 4842, the "Comprehensive, Anti-Drugs Act of 1988." The Agency has no objection to any of the provisions save those noted below.

Section 3081 of H.R. 4842 purports, by amending Title V of the National Security Act of 1947, to create the authority for the government to engage in "special activities" (that is, covert actions) against "illicit international drug trafficking." We believe Section 3081 is unnecessary as there already exists ample legal authority for such activities, if otherwise funded and approved. Moreover, we think it unwise to focus attention on Title V at this time when the Administration is in negotiations with Congress over intelligence oversight amendments to it.

Section 3082 would amend the Foreign Intelligence Surveillance Act (FISA) so as to remove the restrictions FISA otherwise places on intelligence-collection activities directed against narcotics trafficking. The Agency is opposed to this provision. We believe any benefit gained would be outweighed by the risks to the Executive Branch of opening up FISA to amendment.

As with many of the omnibus, anti-drug bills currently before the Congress, this bill contains several of the so-called "drug-free workplace" provisions. While we have no objection to these proposals as they currently stand, we will continue to monitor them to ensure that any final version has no unintended, adverse effects on Intelligence Community equities.

Thank you for the opportunity to comment on this important legislation.

Sincerely,

John L. Helgeson  
Director of Congressional Affairs

STAT

THE REPUBLICAN LEADERSHIP TASK FORCE ON DRUGS

SUMMARY OF

THE COMPREHENSIVE ANTI-DRUGS ACT OF 1988

TITLE I: DEMAND REDUCTION AND USER ACCOUNTABILITY

SUBTITLE A -- USER ACCOUNTABILITY ACT OF 1988

This subtitle renders any individual convicted of a drug trafficking offense or convicted of two drug possession offenses ineligible for any non-safety net federal grants, contracts, loans, or licenses (excluding retirement, welfare, health, disability and certain veteran's benefits) for a period of 5 years for misdemeanors and 10 years for a felony. It also creates a civil fine of up to 25% of the adjusted gross income and net assets of any person caught possessing illegal substances

The subtitle requires the Attorney General to study the feasibility of prosecuting drug cases in alternative or supplemental judicial forums.

Finally, the subtitle requires, as a precondition to a state receiving 10% of its federal highway funds, that state enact laws suspending drivers' licenses upon the conviction of a drug offense.

SUBTITLE B -- DRUG-FREE SCHOOLS AND BUSINESSES ACT OF 1988

This proposal requires, as a precondition to the receipt and maintenance of any federal contract or assistance, that a company maintain a drug-free workplace. A good faith effort satisfies the requirement, and agencies are instructed to issue regulations implementing this section.

SUBTITLE C -- DRUG TESTING IN THE FEDERAL CRIMINAL JUSTICE SYSTEM

This subtitle requires the Attorney General to test for illicit drug use all federal arrestees of drug related offenses. If an arrestee tests positive for drug use in a subsequent retesting, the arrestee's bond would be revoked. It also requires a clean drug test as a precondition to any federal probation, and authorizes the AG to require random testing of federal parolees.

SUBTITLE D -- INCREASED AND EXPANDED TREATMENT OF DRUG ABUSE

This subtitle increases drug abuse treatment services for expectant mothers under alcohol and drug abuse and mental health services block grants.

With respect to programs under the Public Health Service Act, authorizes \$100 million for grants to reduce delays in the availability of treatment programs. These grants are targeted at treatment programs with long waiting lines.

It also calls for a study of existing programs to highlight treatments that work and facilitate their use as the state of the art; and

Finally, it authorizes drug rehabilitation programs at the following levels (Same as President's budget request):

- Office of Substance Abuse Prevention, \$18 million for FY 89, such sums for fy 90 and 91;
- Prevention, Treatment, and Rehabilitation Model Projects for High Risk Groups, \$16.5 million for FY 89, such sums for FY 90 and 91;
- Preventive Health Services Block Grant, \$509 million for FY 89, such sums for FY 90 and 91;
- Emergency Substance Abuse Treatment and Preventive Rehabilitation: \$165 million for FY 89 and such sums for FY 90 and 91.

#### SUBTITLE E -- DRUG EDUCATION AMENDMENTS

This subtitle reauthorizes the Department of Education's drug education grant program at \$250 million for each of FYs 89, 90, 91 (Same as President's request).

It also improves the quality of the grant program by increasing accountability for the programs.

#### SUBTITLE F -- DRUG-FREE PUBLIC HOUSING ACT OF 1988

This proposal authorizes the Department of Housing and Urban Development to establish training and a clearing house of drug abuse and treatment information for housing officials.

### TITLE II: DRUG LAW ENFORCEMENT

#### SUBTITLE A -- DEATH PENALTY FOR DRUG KINGPINS

This subtitle establishes the death penalty for two different types of conduct. The first involves the intentional killing of a person in the course of a continuing criminal enterprise. The second type of conduct involves a person who is convicted of distributing twice the amount of a controlled substance specified in the federal criminal law for a mandatory sentence of life in prison, and who is closely connected with a terrorist organization.

**SUBTITLE B -- EXCLUSIONARY RULE REFORM**

This subtitle permits the consideration in a criminal trial of evidence which was seized by an authorized individual acting in good faith. The individual acted in good faith if he had an objective, reasonable, and good faith belief that he was performing his duties in a manner consistent with the forth amendment to the U.S. Constitution.

**SUBTITLE C -- AUTHORIZATION OF APPROPRIATIONS FOR PRISONS AND PROSECUTORS**

This subtitle proposes an appropriation of \$1,380,084,000 for the Federal Prison System and \$424,418,000 for the United States Attorneys for FY 1989. These are the same levels that the President requested in his FY 1989 budget. Authorization is also provided for the President's FY 1990 requests in these two areas and for leases of private prison facilities as an alternative to prison construction.

**SUBTITLE D -- ELIMINATION OF DIVERSITY JURISDICTION**

This provision eliminates the practice of filing law suits between parties of two different states in the Federal court system. It is estimated that 25% of all cases in Federal courts are so filed because of diversity jurisdiction.

**SUBTITLE E -- STATE AND LOCAL NARCOTICS CONTROL ASSISTANCE**

This subtitle authorizes grants for states which establish innovative user accountability statutes, develop alternative or supplemental judicial systems for drug related offenses, and participate in multi-jurisdictional task forces. This subtitle also increases the requirement of states to match Federal grants, and it authorizes an FY 1989 appropriation of \$250,000,000.

**SUBTITLE F -- DRUG ENFORCEMENT AGENCY PERSONNEL SUPPORT ACT OF 1988**

This provision authorizes the Attorney General to provide personnel in the Department of Justice who serve overseas with the same benefits as overseas personnel in the Department of State.

**SUBTITLE G -- THE ANTI-DRUG MANUFACTURING ACT OF 1988**

This subtitle includes criminal penalties for persons who pollute U.S. lands while manufacturing, distributing, or dispensing a controlled substance, and who endanger human life while possessing or manufacturing a controlled substance.

**SUBTITLE H -- CHEMICAL DIVERSION AND TRAFFICKING ACT OF 1988**

This subtitle establishes a complex scheme of record keeping for and reporting of certain transactions involving chemicals used to manufacture illicit drugs. DEA was instructed to prepare a proposal for this legislation in the Anti-Drug Abuse Act of 1986.

**SUBTITLE I -- LAW ENFORCEMENT OFFICER PROTECTION ACT OF 1988**

This proposal includes several amendments to Federal offenses involving firearms and explosives. For example, this subtitle mandates a 10 year prison term for using a firearm in an assault on a Federal officer, and it prohibits the possession of a firearm in a Federal courthouse.

**SUBTITLE J -- ANTI-PUBLIC CORRUPTION ACT OF 1988**

This subtitle proposes the creation of a new criminal offense punishable by up to 10 years in prison (20 years for a drug related offense) for schemes intended to deprive or defraud citizens of the Federal, state or local governments of the honest services of a public official. The prohibited scheme must involve the mails, wire, radio, television, or interstate transportation.

**SUBTITLE K -- INCREASED PENALTIES**

This subtitle establishes increased penalties for second and third offenses of the current prohibition against possession of cocaine base. This subtitle also includes additional civil penalties for violations of the Controlled Substances Act in the amounts of \$100,000 for the first violation and \$500,000 for subsequent violations.

**SUBTITLE L -- AMENDMENTS TO THE MONEY LAUNDERING CONTROL ACT**

This subtitle involves two changes to the money laundering statutes: 1) it requires reporting of certain electronic fund transfers; and, 2) it provides for the successful conduct of "sting" operations.

**SUBTITLE M -- NATIONAL FOREST SYSTEM DRUG CONTROL**

This provision authorizes law enforcement personnel in the Forest Service to make arrests outside the boundaries of the National Forest System when they are in hot pursuit of a suspect.

**SUBTITLE N -- UNITED STATES POSTAL SERVICE AUTHORITY EXPANSION**

This subtitle authorizes Postal Service Inspectors to enforce Controlled Substances Act prohibitions involving the mail.

**SUBTITLE O -- UNITED STATES MARSHALS SERVICES ACT OF 1988**

This subtitle re-authorizes the Marshals Service and includes many basic authorities vital to the safe operation of the criminal justice system and the efficient administration of the asset forfeiture program.

**SUBTITLE P -- ASSIMILATIVE CRIMES ACT AMENDMENTS OF 1988**

This subtitle provides that the penalties established by a state law for drunk or drug driving are applicable to persons convicted for such driving on federal property located within that state. An implied consent provision for a blood, breath, or urine test upon arrest for drunk or drug driving is also included.

**SUBTITLE Q -- NATIONAL GUARD DRUG LAW ENFORCEMENT ASSISTANCE ACT OF 1988**

This provision requires the state governors to utilize the National Guard for assisting drug law enforcement efforts.

**SUBTITLE R -- DRUG LAW ENFORCEMENT IN PUBLIC HOUSING PROJECTS**

This subtitle authorizes the Secretary of HUD to establish a demonstration project for improving security at public housing. This is to be done by providing grants for a public housing security force or the reimbursement of local law enforcement agencies for their assistance in public housing law enforcement.

**SUBTITLE S -- STUDY OF IMPROVEMENTS TO MONETARY REWARDS**

This subtitle authorizes the Attorney General to study ways to increase assistance in drug law enforcement through the paying of rewards and the utilization of a "bounty" method.

**SUBTITLE T -- DEPORTATION OF ALIENS AMENDMENT**

This provision permits the Attorney General to petition the court to not deport an alien convicted of a drug offense if the alien has provided substantial assistance in a drug investigation or prosecution. If the Attorney General is successful, the alien would serve his prison sentence in the U.S..

**SUBTITLE U -- THE STEROID CONTROL ACT**

This provision adds steroids (Methandrosterolone) to Schedule I of the Controlled Substance Act.

**SUBTITLE V -- TASK FORCE ON CLANDESTINE DRUG LABORATORIES**

This subtitle establishes a joint DEA and EPA task force to develop and implement a program for the clean up and disposal of hazardous waste produced by clandestine drug laboratories.

**SUBTITLE W -- ADDITIONAL PENALTIES FOR OPERATING A LOCOMOTIVE OR COMMON CARRIER WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS**

This subtitle increases the penalties applicable to an operator of a locomotive or common carrier who is convicted of operating such vehicles while under the influence of alcohol or drugs.

**SUBTITLE X -- TECHNICAL CORRECTIONS****TITLE III: INTERNATIONAL DRUG CONTROL****SUBTITLE A -- MULTINATIONAL ANTI-DRUG STRIKE FORCES**

This subtitle directs the President to develop and implement a multinational strike force for the Americas and a similar force for Asia to combat illicit drug manufacturing and production. The President shall undertake this effort through the National Drug Policy Board working in cooperation with the affected departments.

**SUBTITLE B -- AMENDMENTS TO THE FOREIGN ASSISTANCE ACT**

This subtitle expands the authority of the Secretary of State to provide assistance in the form of weapons, ammunition, and training of police officers to nations which the President determines to be in need of such assistance in order to fight drug trafficking organizations.

**SUBTITLE C -- SENSE OF CONGRESS ON THE CONVENING OF A SUMMIT OF WESTERN HEMISPHERE NATIONS CONCERNING DRUG ABUSE**

This proposal urges the President to convene a meeting of the heads of government of those countries in the Western Hemisphere directly affected by drug trafficking.

**SUBTITLE D -- SENSE OF CONGRESS ON SUPPRESSION OF INTERNATIONAL NARCOTICS TRAFFICKING**

This subtitle expresses the sense of Congress that the suppression of international narcotics trafficking is a major national security objective of the U.S. and the most important national security objective within the Western Hemisphere.

**SUBTITLE E -- AUTHORIZATION OF APPROPRIATIONS FOR ASSISTING LAW ENFORCEMENT AUTHORITIES IN CERTAIN FOREIGN COUNTRIES**

This subtitle authorizes additional appropriations to enhance foreign assistance relating to international military education, training and assistance.

**SUBTITLE F -- EXTRADITION AND MUTUAL LEGAL ASSISTANCE TREATIES**

This proposal directs the Secretary of State to place greater emphasis on updating extradition treaties and negotiating mutual legal assistance treaties with major illicit drug producing and transshipment countries.

**SUBTITLE G -- EXPORT-IMPORT BANK FINANCING FOR DEFENSE AGAINST NARCO-TERRORISTS**

This subtitle exempts countries severely threatened by drug traffickers from restrictions on the extension of credit by the U.S. Export-Import Bank for the purchase of military defense articles.

**SUBTITLE H -- INCREASED INTELLIGENCE CAPABILITIES**

This subtitle increases the role of the U.S. Intelligence community in the international anti-drug effort and permits the use of electronic surveillance in international anti-trafficking investigations.

**SUBTITLE I -- MEXICO-U.S. INTERGOVERNMENTAL COMMISSION**

This subtitle establishes a joint Mexico-U.S. anti-drug commission.

**TITLE IV -- INTERDICTION IMPROVEMENT**

**SUBTITLE A -- INTERDICTION IMPROVEMENT**

This subtitle mandates the use of armed forces for interdiction of narcotics at the United States borders. This subtitle is identical to language adopted by the House during its consideration of the DoD authorization bill. It calls for a greater role of the military in the interdiction effort and adds interdiction to the commitment of the National Guard.

**SUBTITLE B -- DEPARTMENT OF TRANSPORTATION STUDY OF ESTABLISHING FLIGHT CORRIDORS**

Requires the Dept. of Transportation, in consultation with



the AG and the Sec. of the Treasury to study the feasibility of establishing flight corridors across U.S. borders and interdicting aircraft that deviate from such corridors

#### **SUBTITLE C -- MARITIME DRUG LAW ENFORCEMENT AND ENHANCEMENT ACT**

Requires the President to provide with his budget request, a detailed budget report agency spending on drug law enforcement for the previous year, and a drug enforcement break down of the budget request. Each Committee must also estimate its drug enforcement budget authority request.

It also requires a Dept. of Transportation study on the feasibility of mandating that all vessels from drug producing countries dock at certain ports and be targeted for effective inspection.

The Coast Guard provisions:

- Sets forth CG duties and procedures for interdiction;
- Authorizes \$155 million for acquisition and construction of equipment, \$17 million to maintain this equipment, and the necessary personnel to operate and maintain the equipment, provided additional appropriations are provided;
- Creates an "innocent vessel owner" exception from drug seizure laws;
- Improve maritime interdiction on the Great Lakes; in the Great Lakes;
- Improve vessel identification;
- Makes technical and conforming changes

#### **SUBTITLE D -- PROHIBITION ON REISSUANCE OF AIRMAN CERTIFICATES**

Permanently revokes an airman's flight certificate following a conviction for drug trafficking